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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,299	06/21/2002	Martin Stanley Johnson	25040-0681	1173

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EXAMINER

PRINCE, FRED G

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,299

Applicant(s)

JOHNSON ET AL.

Examiner

Fred Prince

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-28 is/are allowed.
- 6) ☐ Claim(s) 1, 6-8, 12 and 14-22 is/are rejected.
- 7) ☒ Claim(s) 2-5, 9-11, 13 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- ☐ Interview Summary (PTO-413) Paper No(s) _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

ETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-8, 15, 18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Plester et al. (US Pat. No. 5,776,333).

Plester et al. ('333) teach a water treatment apparatus including a treatment housing with an inlet (7), an outlet (8) below the operating level of the apparatus, a headspace (Fig. 1) between the roof and the water level, a heater (6) within the housing, a filter (1) between the heater and the outlet, wherein a heat exchanger (18) cools treated water and heats untreated water (col. 4, lines 63-67), a temperature probe (36) in a separate chamber (Fig. 1), a reservoir (26) having an inlet separated from an outlet (Fig. 1), automatic control means (35) allowing a lower temperature to be maintained (col. 8, lines 31-36).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plester et al. ('333).

Plester et al. is described above. Plester et al. do not disclose the wattage of the heat exchanger or the flow rate of the water.

It is submitted that it is well within the purview of the skilled artisan to use a specific flow rate and heater wattage in order to ensure sufficient contact time and heating of the water in order to remove contaminants from the water.

Accordingly, it would have been obvious for the skilled artisan to have used a specific flow rate and heater wattage in the apparatus of Plester et al. in order to ensure sufficient contact time and heating of the water in order to remove contaminants from the water, as known in the art.

5. Claims 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plester et al. in view of Acosta.

Plester et al. is described above. Plester et al. do not disclose a depth probe to fill the housing to a maximum level or multiple depth probes.

Acosta discloses using multiple depth probes (130, 134) in order to fill a housing to a maximum level and monitor maximum and minimum depths in the housing (col. 10, lines 37-65).

It would have been obvious for the skilled artisan to have modified the apparatus of Plester et al. such that it included a depth probe to fill the housing to a maximum level and multiple depth probes in order to monitor maximum and minimum depths in the housing, as suggested by Acosta.

Per claim 19, Plester et al. do not disclose a probe to measure water quality. Acosta discloses a probe to measure quality of the water in order to determine subsequent treating steps (col. 3, lines 14-23).

Allowable Subject Matter

6. Claims 26-28 are allowed.
7. Claims 2-5, 9-11, 13, and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Per claim 2, in the examiner's opinion, the prior art fails to teach or fairly suggest a disposable cartridge and heater in combination with the apparatus of claim 1.

Per claims 3-5, in the examiner's opinion, the prior art fails to teach or fairly suggest a screen between the heater and filter in combination with the apparatus of claim 1.

Per claims 9-11, in the examiner's opinion, the prior art fails to teach or fairly suggest the heat exchanger being below the treatment housing or the treatment housing and heat exchanger being side by side in combination with the apparatus of claim 8.

Per claim 13, in the examiner's opinion, the prior art fails to teach or fairly suggest vibrating the heat exchanger in combination with the apparatus of claim 1.

Per claim 23, in the examiner's opinion, the prior art fails to teach or fairly suggest the apparatus being in a housing with a bolt that is released when the

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temperature has fallen to a predetermined level in combination with the apparatus of claim 1.

Per claims 24-25, in the examiner's opinion, the prior art fails to teach or fairly suggest untreated water drawoff means or cooling means prior to returning water to the heat exchanger in combination with the apparatus of claim 6 or 7, respectively.

Per claims 26-28, while it is known in the art to provide a water treatment apparatus with heat exchanger having the recited positioning and operational elements, in the examiner's opinion, the prior art fails to teach or fairly suggest further providing a bypass valve having the recited positioning and operational elements to allow treated water to sterilize the heat exchanger. The instant provides the advantage of using treated water to sterilize the heat exchanger.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (703) 306-9169. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on (703) 308-1261. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Fred G. Prince
FRED G. PRINCE
PRIMARY EXAMINER
9-9-03